

REMARKS

This amendment is responsive to the Office Action mailed February 23, 2005. Applicant thanks Examiner Hartman for the thorough and detailed analysis set forth in the Office Action. Examiner Hartman is also thanked for the time and consideration he extended in a telephone interview conducted March 23, 2005. Applicant has carefully reviewed the Office Action and respectfully traverses the rejections set forth in the Office Action, including the rejections based on newly cited Savoy et al. (5,341,133). The amended claims provided above were discussed with Examiner Hartman in the interview and an agreement was reached that, subject to a supplemental search, the claims above place the application in condition for allowance.

As can be seen, Claims 25-68 are currently under examination. The February 23, 2005 Office Action objected to Claims 36-37 and 58-59 as being dependent upon a rejected base claim but indicated they would be allowable in independent form. With the agreement of Examiner Hartman, applicant has amended independent Claims 25 and 46 to incorporate the allowable subject matter of Claims 36 and 58 respectively. Support for this amendment resides in the specification as filed on at least page 4, lines 16-19. Claims 36 and 58 have been canceled.

In addition, dependent Claims 37 and 59 have been amended to further recite that the device is an active orthosis or prosthesis. The dependencies of Claims 37 and 59 have been amended to refer to Claims 25 and 46 respectively, while the dependencies of Claims 26, 27, 28 and 29 have been amended to refer to Claim 37. The dependencies of Claims 47, 48, 49 and 50 have been amended to refer to Claim 59.

Independent Claims 25 and 46 have further been amended to return to the original claim language of attaching a vibration sensor "to the person's head." Dependent Claims 27, 28, 29, 33, 48, 49 and 50 have also been amended accordingly. Since the indicated allowable subject matter of claims 36 and 58 is now incorporated into base claims 25 and 46, applicant respectfully

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submits that the broader original claim language for the sensor placement is appropriate, while still defining patentable subject matter.

Dependent Claims 38 and 60 have been amended to delete reference to an active orthosis and a prosthesis (now recited in claims 37 and 59), an electronic device and a computer. The dependencies of Claims 38 and 60 are amended to refer to Claims 25 and 46 respectively.

Dependent Claim 34 has been amended to refer to the appropriate steps recited in Claim 25.

In the Office Action, Claim 56 was rejected under 35 U.S.C. §112 as having insufficient antecedent basis for the phrase "the encapsulation." Dependent Claim 56 has been reworded to clarify that when the apparatus includes an encapsulation of the sensor for placement under the skin, the encapsulation further encapsulates the means for transmitting the electrical signal. Support for this amendment resides in the as-filed specification on at least page 4, lines 5-6.

Lastly, in the interview, the Examiner acknowledged it is appropriate for applicant to use the term "bony mastoid process" in Claims 25, 27-28, 46 and 48-49.

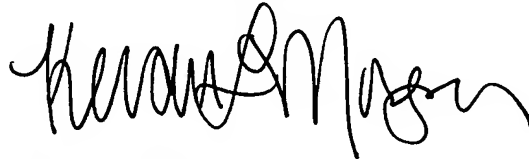
Upon review of the Office Action dated February 23, 2005, applicant discovered that the Patent Office did not include a Form PTO-892 that listed the newly cited reference to Savoy et al. Applicant brought this to the Examiner's attention and respectfully requests that a Form 892 accompany the next action in this application.

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All outstanding matters having been addressed, applicant respectfully requests entry of the amendments indicated above and allowance of the application. Should any issues remain, the Examiner is invited to contact applicant's attorney at the telephone number indicated below.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to **Mail Stop After Final**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

Date: March 30, 2005

Reynold Zeeb

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